

APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

July 23, 2008

I. ROLL CALL

Present: Ali-Santosa and Williams
Absent: None
Staff: Ah Sing, Bejines and Kunsman

1. MINOR SITE DEVELOPMENT PERMIT NO. MS08-0005

Tiffany Kunsman, Junior Planner, presented a request to locate a new 34' x 34' x 10' foot tall trash and recycling enclosure located on the northeast portion of the site at 707 Tasman Drive. Ms. Kunsman recommended approval of Minor Site Development Permit No. MS08-0005 subject to the conditions of approval.

Motion to approve Minor Site Development Permit No. MS08-0005.

M/S: Williams/Ali-Santosa

AYES: 2

NOES: 0

2. MINOR SITE DEVELOPMENT PERMIT NO. MS08-0008

Tiffany Kunsman, Junior Planner, presented a request to construct a new 506 square foot exterior enclosure next to an existing enclosure, located on the back side of the main building at 1656 McCarthy Boulevard. Ms. Kunsman recommended approval of Minor Site Development Permit No. MS08-0008 subject to the conditions of approval.

Motion to approve Minor Site Development Permit No. MS08-0008.

M/S: Williams/Ali-Santosa

AYES: 2

NOES: 0

3. MINOR SITE DEVELOPMENT PERMIT NO. MS08-0009

Tiffany Kunsman, Junior Planner, presented a request to have an International Festival event for SanDisk on Friday, August 15, 2008 located at 601 McCarthy Blvd. Ms. Kunsman recommended approval of Minor Site Development Permit No. MS08-0009 subject to the conditions of approval.

Motion to approve Minor Site Development Permit No. MS08-0009.

M/S: Williams/Ali-Santosa

AYES: 2

NOES: 0

II. ADJOURNMENT

This meeting was adjourned at 6:40 p.m.

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I. PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

II. ROLL CALL/SEATING OF ALTERNATE

Present: Gunawan Ali-Santosa, Alex Galang, Sudhir Mandal, Gurdev Sandhu and Cliff Williams
Absent: Aslam Ali and Noella Tabladillo
Tardy: Larry Ciardella
Staff: AhSing, Bejines, Kunsman, Lindsay and Ogaz

III. PUBLIC FORUM

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

There were no speakers from the audience.

Commissioner Ciardella arrived at 7:01 p.m.

IV. APPROVAL MINUTES

June 25, 2008 and July 9, 2008

OF Chair Williams called for approval of the minutes of the Planning Commission meeting of June 25, 2008 and July 9, 2008.

For the June 25th minutes, Commissioner Ali-Santosa changed the following sentence on page 5:

Commissioner Ali-Santosa said he is concerned about fire truck access if there is a car parked near the intersection or corner. Ms. Hom said the private street is developed in conformance with the fire departments turning radius standards.

For the July 9th minutes, Commissioner Ali-Santosa added the following sentence on page 9:

Commissioner Ali-Santosa asked if the Commission made a decision and the decision was found to be invalid because of a Brown Act violation, who would make the final decision. City Attorney Ogaz said he would look into it and get back to the Commission.

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Motion to approve the minutes of June 25, 2008 and July 9, 2008 as modified.

M/S: Mandal/Ali-Santosa

AYES: 5

NOES: 0

ABSTENTION: 1 (Galang – For July 9th only)

**V.
ANNOUNCEMENTS**

City Attorney Mike Ogaz said at the next meeting and continued thereafter, Bryan Otake, Assistant City Attorney will be attending the Planning Commission meetings.

**VI.
CONFLICT
OF INTEREST**

City Attorney Mike Ogaz asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda.

There were no Commissioners who identified a conflict of interest.

**VII.
APPROVAL OF
AGENDA**

Chair Williams asked whether staff or the Commission have any changes to the Agenda.

There were no changes to the agenda.

Motion to approve the agenda.

M/S: Galang/Mandal

AYES: 6

NOES: 0

**VIII.
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

Chair Williams opened the public hearing on Item Nos. 2 and 3.

There were no speakers from the audience.

Motion to close the public hearing on Item No. 3.

M/S: Mandal/Galang

AYES: 6

NOES: 0

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Motion to approve Consent Item Nos. 2 and 3.

M/S: Mandal/Ali-Santosa

AYES: 6

NOES: 0

***2 ADMINISTRATIVE ITEM NO. AD08-0010:** Approve 2009 Planning Commission meeting schedule provided in the agenda packet. *(Recommendation: Approve)*

***3 CONDITIONAL USE PERMIT NO. UP08-0008, SITE DEVELOPMENT PERMIT NO. SZ08-0004:** A request for approval to demolish an existing gas station and construct a new gas station with a 2,400 square foot convenience store located at 43 S. Abbott Ave. The applicant is also requesting a change in the Gas Station Policy in regards to limitations on the size of the snack shop. *(Recommendation: Table item. Staff to renote application for consideration at future Planning Commission meeting.)*

**IX.
ELECTION
OFFICERS**

OF City Attorney Mike Ogaz passed out ballots for nomination of the Planning Commission Chair.

After tabulating the ballots, Veronica Bejines, Recording Secretary, announced that Cliff Williams has been re-nominated as Chair.

Cliff Williams accepted the nomination.

City Attorney Mike Ogaz passed out ballots for nomination of the Planning Commission Vice Chair.

After tabulating the ballots, Ms. Bejines announced that Sudhir Mandal has been re-nominated as Vice Chair.

Sudhir Mandal accepted the nomination.

**X.
PUBLIC HEARING**

**4. CONDITIONAL USE
PERMIT NO. UP08-0021**

Tiffany Kunsman, Junior Planner, presented a request to locate a new 1,486 square foot take-out restaurant with the indoor service of beer and wine located at 80 N. Milpitas Blvd. Ms. Kunsman recommended the Commission adopt Resolution No. 08-036 approving the project subject to the Conditions of Approval.

Vice Chair Mandal said he is concerned about the business being opened until midnight and asked what the hours of operation are of nearby businesses. Ms. Kunsman said she was not sure.

James Lindsay, Planning and Neighborhood Services Director, said the City does not regulate the hours of operation however if the Commission desires, staff could survey other restaurants that serve alcohol after midnight.

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City attorney Mike Ogaz added that Alcohol Beverage Control (ABC) regulates alcohol by a state permit and it might have time restraints however it is not regulated by the City.

Chair Williams introduced the applicant.

Robert Levine, Wing Stop, 2998 Red Wing Court, Hayward, said he is available to answer any questions.

Commissioner Galang asked what type of food will be served. Mr. Levine said they serve chicken with a few side dishes.

Commissioner Galang asked if Wing Stop will have Sunday night football events. Mr. Levine said that Wing Stop is a franchise and the corporation does not want the restaurant to become a sports bar.

Chair Williams said the Commission received a letter from the nearby Home Owners Association (HOA) who are concerned that the restaurant will bring noise and litter to the area. He asked if Mr. Levine has had any alcohol related problems at his other two stores and Mr. Levine said he has not had any alcohol related incidents.

Chair Williams asked if the applicant will have outdoor seating and Mr. Levine said no.

Vice Chair Mandal asked what time does the Union City and Fremont stores close. Mr. Levine said the general operation hours for the restaurant are from 11 a.m. to midnight. There are a few stores throughout the country that close earlier however the individual franchise would have to prove to the corporation that they are not making enough revenue.

Vice Chair Mandal said he is concerned about the hours of operation and wants to maintain the cleanliness of the area.

Mr. Levine said that all chain of restaurants close at midnight and the activity is kept inside and they frown on any activity after midnight. Also, 80% of their food is take out.

Commissioner Ciardella said he heard very nice things about the restaurant and felt it would be a good addition to the city.

Commissioner Sandhu asked if the applicant sells beer to take out and Mr. Levine said no.

Chair Williams opened the public hearing.

Chair Williams asked if a representative of Shapell would like to speak.

Lynda Caputo, Vice President of Shapell, 100 North Milpitas Blvd., said she is available to answer any questions.

Vice Chair Mandal asked what does Shapell do for safety and security of the neighborhood.

Ms. Caputo said a security guard patrols the Town Center. The hours of operation are determined by the corporate offices of the tenant and businesses at the town center have different operating hours. Shapell has not had any issues relating to the consumption of alcohol and it is a well run family oriented community.

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Chair Williams asked if Shapell provides communication to their tenants alerting them of potential nuisances to adjacent neighbors.

Ms. Caputo said she has been managing property over 25 years and they are in daily communication with their tenants. Shapell even changed the operating schedule of the pressure washer to not disturb adjacent neighbors in the morning.

Motion to close the public hearing.

M/S: Sandhu/Mandal

AYES: 6

NOES: 0

Commissioner Galang asked for clarification on condition no. 8 that reads below:

8. *The business owner shall hold training sessions to instruct their employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards (refer to the County of Santa Clara Department of Environmental Health at (408) 729-5155 for their guidelines).*

Mr. Lindsay said the County Department of Health heavily regulates the restaurant industry within the County and they do inspect the facilities regularly. The primary purpose of this condition is for the business owner to practice and maintain good housekeeping specifically to garbage handling outside the store. If the City finds that the business is not practicing good housekeeping then it would be a violation of the condition of approval.

Vice Chair Mandal said he is still concerned about the HOA letter and said he would like to see a six month review on the permit.

Motion to adopt Resolution No. 08-036 approving Conditional Use Permit No. UP08-0021, subject to the attached Conditions of Approval.

M/S: Sandhu/Ciardella

AYES: 2 (Ciardella and Sandhu)

NOES: 4 (Ali-Santosa, Galang, Mandal and Williams)

Motion failed.

Motion to adopt Resolution No. 08-036 approving Conditional Use Permit No. UP08-0021, subject to the attached Conditions of Approval with a six month review.

M/S: Williams/Mandal

AYES: 6

NOES: 0

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**5. SPECIFIC PLAN
AMENDMENT NO. ST08-
0001**

Julie Moloney, Associate Planner, presented an amendment to the Midtown Specific Plan, a long range plan outlining development standards and opportunities for approximately 850-acres located in the midtown area of the City generally bounded by the Union Pacific Railroad lines to the east and north, Abel Street and Elmwood Rehabilitation Center to the west and the City Limits to the south. The amendments include removing references in the text descriptions, policies and figures to the areas now encompassed by the Transit Area Specific Plan, recently adopted by the City Council on June 3, 2008, and the removal of the Midtown Specific Plan designation within an industrial area bounded by Montague Expressway to the north, a vacant parcel adjacent to I-680 to the east, and a City trail to the west and south along the city limits, and redrawing the boundary lines to reflect these changes. Ms. Moloney recommended the Commission close the public hearing and adopt Resolution No. 08-030 recommending approval of the amendments to the Midtown Specific Plan, General Plan and Zoning Maps.

Chair Williams, who was part of the original Midtown Subcommittee, asked if staff is going back to the original concepts of the map boundaries. Mr. Lindsay said the Midtown Plan was originally identified as a historic core of Main and Abel, and as the plan study began, the boundaries did grow and now it is going back to original concepts.

Chair Williams said the focus was to revitalize Main Street and he felt that everything else is going on except that. He felt that there is no action on Main Street because many of the property owners are seeking to financially benefit from something that is more than realistic and asked if the Economic Development department is focused on bringing vibration back to Main Street.

Mr. Lindsay said the Midtown Area is an important area to the City and it requires the cooperation of the property owners. The plan is in place and the City is able to assist for redevelopment to occur.

Vice Chair Mandal asked for confirmation that the future BART station location has moved. Mr. Lindsay said there is a station identified on Calaveras and Montague.

Vice Chair Mandal asked what is the future of the BART station. Mr. Lindsay said it is his understanding that VTA is proposing a 1/8 cent sales tax in November and are trying to look at different funding.

Chair Williams opened the public hearing.

Theodore Weller, Milpitas Resident, said he is concerned that he did not see anything about adding new schools, new parks or new playgrounds in the Plan. He felt there has been a lack of recreational areas around the new large complexes of people and questions where kids will be going to school. He pointed out that there is a triangular piece of property on Main Street and suggested that staff build a small park for the elderly, children, and parents of children who drop off their kids at the library.

Chair Williams agreed with Mr. Weller however he felt that property owners need to be actively involved in a joint effort with the City.

Commissioner Ciardella pointed out the map and said there is a strip of land called Parks and Open Space about 1,000 feet towards Fremont and asked if it would be developed. Mr. Lindsay said that property is located near a creek channel and this trail segment would hopefully connect to the Berryessa Creek Channel.

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Motion to close the public hearing.

M/S: Sandhu/Ali-Santosa

AYES: 6

NOES: 0

Commissioner Ali-Santosa referenced Exhibit 3, General Plan Map Amendment, and pointed out that the map shows railroad tracks crossing Yosemite and Union Pacific Railroad however the railroad tracks are no longer there. He asked staff if the map needs to be updated. Mr. Lindsay said staff will update the location of the railroad spurs.

Motion to adopt Resolution No. 08-030 recommending approval of the amendments to the Midtown Specific Plan, General Plan and Zoning Maps.

M/S: Williams/Mandal

AYES: 6

NOES: 0

XI. ADJOURNMENT

The meeting was adjourned 8:35 p.m. to the next regular meeting of August 13, 2008.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Veronica Bejines
Recording Secretary

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